

**HIGH COURT OF UTTARANCHAL AT NAINITAL.**

**Writ Petition no. 813 (S/S) 2006**

Kundan Singh Dasila S/o Sri Dhan Singh Dasila,  
At present working as Mali in  
Raj Bhawan Udhyan, Nainital. -----Petitioner.

Vs.

1. State of Uttaranchal through the Secretary,  
Udhyan and Khadya Prasanskaran Vibhag,  
Govt. of Uttaranchal, Secretariat, Dehradun,
2. Director, Udhyan and Khadya Prasanskaran Vibhag,  
Uttaranchal, Udyan Bhawan, Chaubattia,  
Ranikhet (Almora),
3. The Deputy Director, Udhyan and Khadya Prasanskaran  
Vibhag, Kumaon Mandal, Nainital,
4. Officer-in-charge (Prabhari) Udhayan Sachal Dal,  
Kendra Lamgada, (Almora). -----Respondents.

Sri Jitendra Chaudhary, learned counsel for the petitioner.  
Learned Standing Counsel for the respondents,

**Hon'ble M.M. Ghildiyal, J.**

Heard Sri Jitendra Chaudhary, learned counsel for the petitioner and learned Standing Counsel for the respondents.

2. By means of this writ petition, the petitioner has prayed for the following reliefs:-

- i. To issue a writ, order or direction in the nature of certiorari to quash the impugned transfer order dated 15.06.2006 (annexure no. 1) passed by the respondent no. 3, i.e. the Deputy Director, Udhyan and Khadya Prasanskaran Vibhag, Kumaon Mandal, Nainital.
- ii. To issue a writ, order or direction in the nature of mandamus commanding and directing the respondents that they may permit to the petitioner to continue on the post of Mali at present posting place,

- iii. Issue any other writ which this Hon'ble Court may deem fit and proper,
- iv. Award the cost of the petition.

3. The petitioner has challenged the impugned order dated 15.06.2006 passed by the respondent no. 3 by which the petitioner has been transferred from Raj Bhawan Udhyan, Nainital to Udhyan Sachal Dal Kendra Lamgada (Almora).

4. It is contended by the learned counsel for the petitioner that vide earlier order dated 30.06.2005, the petitioner was transferred from Almora to Raj Bhawan, Nainital as Gardener, subsequently this order was cancelled by the respondent no. 3 vide its order dated 15.06.2006 which is under challenge in the present writ petition.

5. Learned Standing Counsel has submitted that on the post against which the petitioner was transferred, another person has been appointed as Gardener. Pursuant to the order passed by this Court. Under these circumstances, the respondent no. 3 has cancelled the earlier transfer order dated 30.06.2005.

6. Counsel for the petitioner has submitted that the posts of Gardeners are still vacant in the Raj Bhawan, Nainital; the children of the petitioner are studying at Nainital, therefore the petitioner may be permitted to continue on the post at Raj Bhawan against the vacant post of Gardener till the end of session.

7. Without entering into the merits of the case, I direct the petitioner to make representation before respondent no.3 within ten days from today raising all his grievances and in

case, representation is made by the petitioner the respondent no. 3 shall take decision on the representation within two weeks from the date of receipt of a certified copy of this order alongwith the representation.

8. With this direction, the writ petition is finally disposed of.  
No order as to costs.

**(M.M. Ghildiyal, J.)**

June 27,2006:

NCM: